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October 21, 2011

**BY ELECTRONIC COMMENT FILING SYSTEM**

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, D.C. 20554

Re: Developing an Unified Intercarrier Compensation Regime – WC Docket No. 10-90; GN Docket No. 09-51; WC Docket No. 07-135; WC Docket No. 05-337; CC Docket No. 01-92; CC Docket No. 96-45; WC Docket No. 03-109; Federal-State Joint Board on Universal Service Lifeline and Link Up Lifeline and Link Up Reform and Modernization – WC Docket No. 11-42 – Ex Parte Communication

Dear Ms. Dortch:

On October 20, 2011, Mark Stachiw, Vice Chairman, Secretary & General Counsel of MetroPCS Communications, Inc. ("MetroPCS") (by teleconference), along with Carl W. Northrop and Michael Lazarus of Telecommunications Law Professionals PLLC ("TLP"), met with (1) Angela Kronenberg, Wireline Legal Advisor to Commissioner Mignon Clyburn, and (2) Margaret McCarthy, Wireline Policy Advisor to Commissioner Michael Copps, to discuss the above-referenced proceedings. MetroPCS expressed its strong support in these meetings for the Commission to proceed with intercarrier compensation reform at its open meeting next week. MetroPCS urged the Commission to seize the day and implement the sorely needed comprehensive form that is long overdue. MetroPCS noted, however, that it does not receive Universal Service Fund support, and thus, other than supporting Commission efforts to guard against fraud, waste and abuse, particularly in the lifeline program, does "not have a dog in the USF fight." In addition, Michael Lazarus of TLP left voicemail messages with Julie Veach of the Office of General Counsel and Marcus Maher of the Wireline Competition Bureau expressing MetroPCS' support for including Commission rules requiring IP-to-IP interconnection for CMRS/LEC interconnection within the upcoming intercarrier compensation order, as noted in further detail below.

**MetroPCS Strongly Supports the Commission's Efforts to Finally  
Adopt Intercarrier Compensation Reform**

During its meetings with Ms. Kronenberg and Ms. McCarthy, MetroPCS noted its strong support of the Commission's efforts to reform the intercarrier compensation system by adopting a unified regime. MetroPCS expressed its hope that the stars are finally in alignment for the Commission to reform an outdated system that has fostered diseconomic arbitrage and inefficiencies for way too long. MetroPCS noted that it understood that the order represented significant tradeoffs for all entities involved, but expressed its belief that the Commission has reached the right balancing of interests. MetroPCS urged the Commission to adopt a course that will allow the necessary comprehensive reforms to be put in place as soon as practicable. The revised system should be technology neutral, discourage arbitrage and be future proof, since history indicates that the Commission is not likely to have another near-term opportunity to change the rules it adopts here. MetroPCS also urged that any rules adopted by the Commission with respect to intercarrier compensation that do not require approval under the Paperwork Reduction Act be allowed to take effect immediately, even if certain other rules in the Commission's upcoming order do require such approval. This would allow such necessary reforms to become effective at the earliest possible date.

MetroPCS also discussed its support for a reform regime in which all traffic ultimately is exchanged under a bill-and-keep arrangement, and its hope that the transition period for this arrangement is as short as possible (e.g., no longer than four years). MetroPCS also noted its strong support for immediate Commission action that would curb traffic pumping in both the local reciprocal compensation and interstate access markets. Such action is critical, as traffic pumping is an escalating problem that has moved from simple arbitrage to wide-scale fraudulent schemes. What started as a cottage industry of encouraging customers of carriers to call for access-supported services has become something much more sinister, with carriers and other parties going to surprising lengths to generate high-cost traffic.

MetroPCS further noted that, ultimately, all communications traffic, including Voice over Internet Protocol ("VoIP"), should be subject to a common framework. However, the same considerations that merit an orderly transition toward the bill-and-keep regime support a gradual phased-in approach to bringing VoIP into the compensation system. MetroPCS believes that it could be a mistake to take a flash cut approach that immediately applies the current, broken interconnection framework to VoIP traffic. Instead, MetroPCS recommends that the Commission bring VoIP into the regime only once any transition periods end and all traffic is settled where intercarrier compensation rates eventually will end up. Any other outcome may result in inefficiencies with respect to VoIP traffic, as well as additional costs to consumers in the near-term.

**The Commission Should Include Rules Requiring IP-to-IP Interconnection for  
CMRS/LEC Interconnection Within its Upcoming Order**

In all four communications with Commission staff, as reflected by its comments in this docket and in the TW Telecom Petition docket,<sup>1</sup> MetroPCS noted its support for the Commission to clarify in its upcoming intercarrier compensation order that all traffic that originates and terminates as switched voice traffic, including Commercial Mobile Radio Service ("CMRS") traffic that may include an IP component during carriage, be governed by Section 251(c) of the Communications Act of 1934, as amended (the "Act"). CMRS traffic that originates or terminates on the public switched telephone network ("PSTN") already has been recognized by the Commission to be a telecommunications and telecommunications services.<sup>2</sup> These classifications should not change merely because IP protocols are used at some point during transmission of the traffic, so long as the traffic remains switched voice at the origination and termination points. Otherwise, carriers may be incented to use less efficient transmission methods (i.e., time division multiplexes, or TDM) solely due to regulatory classifications.<sup>3</sup> The format in which the traffic is exchanged among interconnected carriers should have no impact on what traffic (or on the character of that traffic) is exchanged. Indeed, in its IP-in-the-Middle Order,<sup>4</sup> the Commission confirmed that telecommunications services that go through an "IP-in-the-middle" path remain telecommunications services. While that Order dealt only with a single carrier, the legal analysis does not change if two different carriers are exchanging switched voice traffic using IP – the end-to-end nature of the communications and the circumstances surrounding the use of IP-in-the-middle, as well as the nature and classification of the traffic routed, remain unchanged.

In addition, Section 332 (which defines CMRS) does not make a distinction between traffic which is interconnected using TDM or IP – the operative distinction is whether it is interconnected with the PSTN. Since having the traffic exchanged via IP interconnection would not change the character of the traffic (e.g., it is still a "mobile service" and still an "interconnected service" because it would be interconnected with the PSTN), it would remain telecommunications traffic. CMRS providers have also been previously classified as telecommunications carriers by the FCC, which are subject to Section 251.<sup>5</sup>

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<sup>1</sup> MetroPCS Reply Comments in TW Telecom Inc. Petition for Declaratory Ruling Regarding Direct IP-to- IP Interconnection Pursuant to Section 251(C)(2) of the Communications Act, Public Notice, DA 11-1198, WC Docket No. 11-119 (rel. Jul. 22, 2011) ("TW Telecom Petition").

<sup>2</sup> In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Interconnection between Local Exchange Carriers and Commercial Mobile Radio Service Providers, First Report and Order, 11 FCC Rcd 15499, 15989 ¶ 933 (1996) ("LEC-CMRS Interconnection Order").

<sup>3</sup> MetroPCS noted that it currently exchanges certain interexchange traffic using IP, and has found it to be more efficient than using TDM. MetroPCS also mentioned that it has not requested IP interconnection with ILECs, as its current ILEC interconnection agreements do not provide for IP interconnection.

<sup>4</sup> Petition for Declaratory Ruling that AT&T's Phone-to-Phone IP Telephony Services are Exempt from Access Charges, Order, 19 FCC Rcd 7457 (2004) ("IP-in-the-Middle Order").

<sup>5</sup> LEC-CMRS Interconnection Order at ¶ 993.

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The Act defines a 'telecommunications carrier' as "any provider of telecommunications services," and it therefore follows that CMRS carriers provide telecommunications services.<sup>6</sup> The FCC has gone one step further and clarified this determination by stating that CMRS carriers "are providers of telecommunications services as defined in the 1996 Act and are thus entitled to the benefits of section 251(c), which include the right to request interconnection and obtain access to unbundled elements at any technically feasible point in an incumbent. . . ."<sup>7</sup> Therefore, the Commission has multiple jurisdictional bases to clarify that, at least with respect to CMRS traffic destined for (or coming from) the PSTN, telecommunications carriers have an obligation to interconnect using IP under Section 251(c)(2).

**The Commission Should Reduce Waste, Fraud and Abuse in the Universal Service System**

During its meeting with Ms. Kronenberg, MetroPCS noted its hope that the Commission will reduce the prospects for waste, fraud and abuse, particularly within the wireless lifeline services program, which has proven difficult for the Commission to police. MetroPCS suggested that the Commission consider changing the wireless lifeline program from a service provider paid model to one where any payment is made directly to the consumer, perhaps using a voucher system. Such a model would eliminate considerable involvement by the government in certifying carriers, would spur competition for such customers by all carriers (any of which could design numerous programs to market to such customers), and would allow the government to root out fraud, waste and abuse much more easily.

Any questions regarding this notice should be directed to the undersigned.

Sincerely,

/s/ Michael Lazarus

Michael Lazarus  
of TELECOMMUNICATIONS LAW PROFESSIONALS PLLC

cc (via email): Angela Kronenberg  
Margaret McCarthy  
Julie Veach  
Marcus Maher

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<sup>6</sup> 47 U.S.C. § 153 (44).

<sup>7</sup> LEC-CMRS Interconnection Order at ¶ 993.